

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

JAMES R. HENSON, }
Plaintiff, }
vs. } No. 07 CV 50223
BARCZY, et.al., } Honorable Frederick J. Kapala, District Judge
Defendants. } Magistrate Judge P. Michael Mahoney

NOTICE OF VOLUNTARY DISMISSAL

The Plaintiff, JAMES R. HENSON, by and with the assistance of his standby counsel, James W. Mertes, does hereby file formal notice of his voluntary dismissal of the above-entitled cause of action, pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, and in support of such Notice the Plaintiff states as follows:

1. On November 13, 2007, the Plaintiff filed his *pro se* Complaint wherein he appeared to allege a civil rights action pursuant to 42 U.S.C. §1983 against certain correctional officers, officials, and a psychiatrist at the Dixon Correctional Center in Dixon, Illinois.
2. On January 3, 2008, the Honorable Frederick J. Kapala, United States District Judge, appointed Attorney Gregory E. Tuite to represent the plaintiff in accordance with counsel's trial bar obligations pursuant to Local Rule 83.37 of the United Stated District Court for the Northern District of Illinois.
3. On February 8, 2008, the Honorable Magistrate Judge P. Michael Mahoney, granted Attorney Tuite's Motion to Withdraw from representation on behalf of the Plaintiff, and appointed Attorney James W. Mertes to represent the Plaintiff in accordance with counsel's trial

bar obligations pursuant to Local Rule.

4. Following his appointment as counsel for the Plaintiff, Attorney Mertes reviewed all pleadings and court documents filed in the above-entitled cause, in addition to those pleadings filed by the same *pro se* Plaintiff in separate federal civil causes of action, namely, James R. Henson vs. McHenry County Sheriff's Department, et.al., U.S. District Court Case No. 03 CV 50480 (Northern District of Illinois – Western Division) and James R. Henson vs. Donald N. Snyder, et.al., U.S. District Court Case No. 03 CV 02157 (Central District of Illinois).

5. On February 23, 2008, within 15 days of his appointment, Attorney Mertes and an associate attorney travelled to Pinckneyville, Illinois and personally met with the Plaintiff, James R. Henson, at the Pinckneyville Correctional Center, for the purpose of further investigating the alleged facts and theories underlying Plaintiff's asserted claims.

6. On March 6, 2008, Attorney Mertes filed a Motion to Withdraw from representation on behalf of the Plaintiff, alleging therein that he was unable to identify any claim or cause of action on the part of the Plaintiff that could be properly asserted within an Amended Complaint filed in accordance with counsel's obligations under Rule 11 of the Federal Rules of Civil Procedure.

7. On March 7, 2008, Judge Mahoney granted Attorney Mertes' Motion to Withdraw, in part, and appointed Attorney Mertes as standby counsel for the Plaintiff.

8. On May 7, 2008 and May 8, 2008, the Plaintiff, James R. Henson, directed that Attorney Mertes assist him in seeking a voluntarily dismissal of the cause of action, in its entirety.

9. The Plaintiff did not serve summons upon any Defendant named herein.

10. No Defendant herein has served either an answer or a motion for summary judgment.

11. Pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, a Plaintiff may voluntarily dismiss an action without court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.

WHEREFORE, pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, the Plaintiff does hereby respectfully give Notice of his voluntary dismissal of this cause of action.

/s James W. Mertes
James W. Mertes
Standby Counsel for Plaintiff

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